

Exhibit B

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BY FEDERAL EXPRESS

Hon. Thomas P. Griesa
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *NML Capital, Ltd. ("NML") v.*
The Republic of Argentina ("Argentina"), 03 Civ. 8845 (TPG), et al.

Dear Judge Griesa:

We write on behalf of NML regarding its subpoena (the "Subpoena") to non-party Bank of America, N.A. ("BoFA"), which is currently subject to motions to compel and quash. In its Motion to Compel (Docket # 336), NML stated it would narrow the Subpoena by excluding all individual Argentine officials from BoFA's first "wave" search for responsive SWIFT messages. We write to inform the Court that NML must revise its position due to recently-surfaced information showing the involvement of Argentina's president, Cristina Fernandez de Kirchner, and her late husband, former president Nestor Carlos Kirchner, in frustrating anti-money-laundering efforts in Argentina.

A December 6, 2010, Wall Street Journal ("WSJ") article, titled "Is Argentina Washing Dirty Money?", reports that a cable from the U.S. Ambassador to Argentina, posted on the website WikiLeaks, states "that a key Argentine anti-money-laundering unit [the UIF] has been protecting the first couple from scrutiny and investigation in the area of dirty money." See WSJ article (enclosed) at 1. The cable notes "[t]he near complete absence of enforcement coupled with a culture of impunity and corruption," and states that the head of the UIF "is personally holding back [suspicious transaction reports or STRs] on the Kirchner circle and has refused to respond to requests for STRs on the Kirchners themselves" from other governments. *Id.* at 2. The cable concludes that Argentina will not enforce anti-money laundering laws because "[t]he Kirchners and their circle simply have too much to gain themselves from continued lax enforcement." *Id.* (NML has verified that the WSJ article accurately quotes the cable, and can provide the cable to the Court upon request.)

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In its efforts to collect on its billions of dollars of judgments against Argentina, NML has sought to uncover assets hidden by the Argentine government to evade enforcement by its judgment creditors. It now appears that the Kirchners have been complicit in Argentina's efforts to hide its assets from creditors; and NML believes, based on numerous published reports including the attached, that the Kirchners hold in their own names funds that equitably belong to Argentina. BofA's anti-money-laundering software can identify potentially improper transfers to the Kirchners so that Argentina cannot avoid its creditors by means of transfers in individual names. Therefore, NML requests that the Court compel BofA to include Cristina Fernandez de Kirchner and Nestor Carlos Kirchner in BofA's initial SWIFT message search pursuant to the Subpoena. The Kirchners are listed in Exhibit 1 to the Subpoena. The addition of two names to BofA's search will not significantly increase BofA's burden. A search for the Kirchners' unusual names will not result in a substantial number of "false positives," and thus will not invade the privacy of unrelated accountholders.

For these reasons, the Court should compel BofA to include the Kirchners in its initial search for SWIFT messages responsive to the Subpoena, in addition to the other relief sought in NML's Motion to Compel.

These recent revelations concerning Argentina's deliberate neglect of its anti-money-laundering program are, of course, further reason that the requested non-party discovery of BofA should proceed expeditiously, to discover assets of Argentina whether or not they are in the Kirchners' names, since Argentina simply cannot be relied upon for honest information.

The foregoing is without prejudice to NML's right to seek to add other individual names to BofA's search, as more fully set forth in NML's Motion to Compel. We look forward to the argument of this motion on December 17, 2010.

Respectfully submitted,



Joel M. Miller

cc: Barry J. Glickman, Esq. (by e-mail)
Carmin D. Boccuzzi Jr., Esq. (by e-mail)

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Is Argentina Washing Dirty Money?

WikiLeaked cable 1257 suggests that it is.

By MARY ANASTASIA O'GRADY



Need more evidence of the futility of the war on drugs? Look no further than a WikiLeaked cable from the U.S. Embassy in Argentina released last week. It turns out that for all the happy talk about international cooperation to combat money laundering, the embassy believes some politicians may not really be interested.

(I refer to WikiLeaked cable 1257 from Buenos Aires, dated Dec. 1, 2009, and signed by Ambassador Vilma Martinez. This dispatch includes serious allegations that a key Argentine anti-money-laundering unit has been protecting the first couple from scrutiny and investigation in the area of dirty money.

This matters because combating money laundering on a global basis is supposed to be a crucial weapon in the war on drugs.

When the U.S. government first gave itself the job of halting recreational drug consumption, it went after users. But demand was strong and the prospect of locking up so many from every socioeconomic class was impractical. So it switched to a war on supply. This too has failed, as evidenced by the steady flow of drugs to American consumers that continues today, even while the drug warriors make spurious claims to "success" in, for example, Colombia.

Some admit privately that they are not winning their war, which, this year, will claim thousands of innocent Mexican lives. But they're not giving up. Plan C is a greater effort to stop drug-related money laundering.

For a peek at how that's going, I recommend cable 1257, presented by WikiLeaks as a report from the U.S. Embassy in Buenos Aires on the work of the Financial Action Task Force's "two week peer review" of Argentina's "anti money-laundering and counter terror-finance regime." (The Paris-based FATF is an intergovernmental body with a mission to hunt down those who use the financial system to wash dirty money.) For the record, the State Department says it does not comment on classified documents and Argentina has called the WikiLeaked cables "nonsense" and refused to comment further.

The cable leads with a summary that states "the FATF operational team leader is skeptical of the [government's] intentions" to deal with these problems. "Some embassy contacts argue that the current [government] leadership, including the president, stands to lose from honest and vigorous pursuit of money laundering."

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More worrying is where the embassy believes this could lead. "The near complete absence of enforcement coupled with a culture of impunity and corruption make Argentina ripe for exploitation by narco-traffickers and terrorist cells," the cable says. "For the most part, [embassy contacts] insist that terror financing is seldom, if ever transacted in Argentina. Most maintain, however, that narcotics-trafficking is becoming a real problem and that, increasingly, the dirty money sloshing through the financial system originates in the drug trade."

Associated Press

President of Argentina, Cristina Kirchner

One notable opinion in the report allegedly comes from "Fabio Contini, the Italian national who heads the [FATF's] operational review team [and] has spent over a year in Argentina as the Economic and Financial attaché at the Italian embassy." Mr. Contini, the report claims, "has a sober view of the [government's money-laundering/counter-terrorism financing] efforts, which he deems little more than a fig-leaf." According to the cable, he maintains that Argentina's actions "are calculated for minimal compliance with international standards and evince little real enthusiasm for cleaning up the financial system."

Argentina is a poor country and the cable notes that the resources for policing the financial system are lacking. But the implication in much of what the embassy said it learned from its contacts is that the government might be more than simply an innocent bystander too weak to stop a crime.

"Numerous embassy contacts and press reports have fingered the [financial information unit or UIF] as the main agent" of those "failures," the cable says. What's wrong with the UIF? The embassy wrote that according to an adviser from the IMF, it is "an inept and politically compromised institution." That same official, according to the cable, told the embassy's economics office that the head of the UIF "is personally holding back [suspicious transaction reports or STRs] on the Kirchner circle and has refused to respond to requests for STRs on the Kirchners themselves from Switzerland, Lichtenstein and Luxembourg."

In closing, the embassy noted that "it is probably unrealistic to expect that [Argentina] will funnel resources to prosecutors or make a concerted effort to pursue money launderers. The Kirchners and their circle simply have too much to gain themselves from continued lax enforcement."

In the FATF's executive summary, released in October, Argentina earned "noncompliance" or "partial compliance" in almost all categories. Yet there is no direct reference to the lack of political will as the motivating factor. Instead "enhance[d] authority," more effort to address "technical shortcomings," updated laws and "adequate resources" are recommended.

Any realistic assessment of the war on drugs would have to conclude that this is a charade. One is also left to ponder how many other governments also practice Argentina's methods.

Write to O'Grady@wsj.com

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